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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,214	08/21/2003	Lowell D. Goldie	02-5139-A (CIP)	7241

7590 03/31/2005
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EXAMINER


AVERY, BRIDGET D

ART UNIT PAPER NUMBER

3618

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.		Applicant(s)	
	10/645,214		GOLDIE, LOWELL D.	
	Examiner		Art Unit	
	Bridget Avery		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 20 November 2003.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 5-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 5-12 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

- 1. ☐ Certified copies of the priority documents have been received.
- 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
- 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. The preliminary amendment filed by applicant on August 22, 2003 is acknowledged and has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. In claim 9, applicant has claimed two (2) plates, lines 2 and 4. It is unclear as to which plate applicant is referring to in his recitation of "said plate" in line 6.

It is suggested that applicant amend his claims to recite --a first plate--and --a second plate-- for clarity.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,824,160 in view of Johnson (US Patent 5,374,071).

US Patent No. 6,824,160 teaches a jack dolly including every claimed feature except for a spring loaded friction braking system including a roller, a plate and a pedal.

Johnson teaches a friction braking system including a pedal (7) affixed perpendicular to a plate (1); a rod (13) affixed perpendicular to the plate (1), which when combined with 6,824,160 corresponds to the position of the rear arm member, a roller (4) affixed to a plate (3); and a spring (2) connecting the plate (3) with the roller affixed to the plate (1), which when combined with 6,824,160 corresponds to the position of the rear arm member.

Based on the teachings of Johnson, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the jack dolly of 6,824,160 to include the friction braking system of Johnson to provide force against one of the wheels so as to provide a substantive resistance to the rotation of the wheel to prevent unwanted movement of the jack dolly. With respect to the provision of an additional spring to connect the pedal to the rear arm member, based on the teachings of Johnson, it would have been obvious to replace the plastic member (9) with a spring to hold the pedal (8) in the neutral position. Further, the braking system locks into place as described in column 1, lines 59-65.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Husted et al. shows a stable powered tricycle with traction steering.

Husted shows a lightweight maneuverable power chair.

Nowell shows a wheeled automobile jack.

De Weese shows a travel-lift chair.

Smeitink shows a wheel trolley.

Nowell shows a powered towing dolly for vehicles.

Tabayashi shows a carrier for cylindrical containers.

Williamson et al. shows an apparatus for manually moving loads.

Chase shows a roller skate brake.

Godfrey et al. shows a radio controlled vacuum cleaner.

Dalton shows a dolly for moving and positioning vehicles.

Bardy shows a walking roller skate.

Pitan et al. shows an add-on unidirectional brake.

Nelson shows a mini-dolly for transporting vehicles.

Nowell shows a dolly.

Ulbing shows a reversible one-way brake.

Faircloth et al. shows a pivoted platform truck.

McNamara shows a vehicle dolly.

Northrop shows a jointed truck.

Maekawa shows slip prevention equipment for automobile tire.

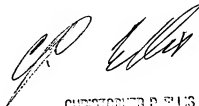
Arai shows a tire removable tool.

Nakano shows a reverse rotation-preventing tool of paper holder.

6. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 703-308-2086.


Avery

March 18, 2005


CHRISTOPHER D. ELLIS
SUPERVISOR, AMERICA'S COMPETITIVE
TECHNOLOGY CENTER